

REMARKS

Claims 1, 2, 4, 9, 18-21 and 24-28 stand rejected under 35 USC § 102(b) as being anticipated by Iacocca, U.S. Patent No. 5,120,164. Claims 1-4, 9, 18-21 and 24-28 stand rejected under 35 USC § 102(b) as being anticipated by Repka, U.S. Patent No. 5,495,696. Claim 29 stands rejected under 35 USC § 102(b) as being anticipated by Blume, U.S. Patent No. 5,316,410. Claims 1-2, 4-5, 9, 18-22, 24-28 stand rejected under 35 USC § 103(a) as being unpatentable over Blume in view of Repka or Iacocca. Claims 11-17 are allowed. Claim 10 is cancelled. Claims 6-8 and 23 have been indicated as being allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Claims 1-9 and 18-29 remain at issue.

Applicant wishes to thank Examiner Singh for the courtesy extended in the telephonic interview of July 13, 2005. During the interview, the independent claims were discussed in light of the applied prior art references of Iacocca, Repka, Blume and Hammar, U.S. Patent No. 3,188,694; Rensch, U.S. Patent No. 3,374,593; Santoro, U.S. Patent No. 3,623,296; and Lamar, U.S. Patent No. 3,186,931. The undersigned pointed out that the primary references of Iacocca, Repka and Blume each teach a drainage pipe or drainage tile within a gravel bed in the nature of a French drain. The drainage pipe or tiles are configured to receive water from the surrounding media and convey the water away. The term "utility line" as described in the specification and as argued in greater detail in the Amendment and Remarks dated March 16, 2005, are distinct from drainage pipe or tiles because they are not intended to receive and convey ground water. Furthermore, it was pointed out that the newly applied references, namely, Hammar, Rensch, Santoro and Lamar, teach buildings having spaces for receiving utility lines, including drainage lines. The drainage lines discussed in these various patents are of a nature connected to sinks, toilets and the like and thus are akin to sewer lines or "utility lines" as this term is used in the specification. These references do not equate drainage tiles or drainage lines with utility lines.

In order to distinguish "utility line" as used in the claims from the drainage pipe and drainage tiles taught in Iacocca, Repka and Blume, the undersigned proposed amending the claims as set forth herein to recite a "utility line configured to prevent intrusion of ground water." Examiner Singh agreed to reconsider the patentability of these claims over the art of record in light of these amendments. However, Examiner Singh indicated that further searching would be in order.

Examiner Singh also called to the attention of the undersigned the following patents: Keene, U.S. Patent No. 3,675,432; Lefever, U.S. Patent No. 3,952,529; and Grodsky, U.S. Patent No. 2,007,969. Cited within one of these patents was also McLaughlin, U.S. Patent No. 3,568,455. Each of these patents are listed in the attached Information Disclosure Statement. The Examiner asked that patentability of the claims as amended be considered in light of these additional references. As discussed in greater detail below, none of these references teaches or suggests the combination of elements in the claims, as amended. Accordingly, it is respectfully submitted the claims are patentable over these references.

The Keene patent (“the ‘432 patent”) teaches a water impermeable membrane surrounding a gravel bedding for a pipe. Thus the ‘432 patent fails to teach a filter fabric wrapped around the gravel bedding. Moreover, one skilled in the art would not be led to modify the ‘432 patent to replace the impermeable membrane with a filter fabric wrap because the ‘432 patent expressly teaches the water impermeable membrane is critical for preventing water from entering into the gravel bed.

Like the Keene patent above, the Lefever patent (“the ‘529 patent”) teaches it is imperative to prevent the entry of water into a bedding surrounding a pipe. To do this, the ‘529 patent teaches lining the bedding with plastic sheeting or filling the space between spheres within the bedding with a non-freezing gel. Thus, not only does the ‘529 patent fail to teach or suggest the use of a filter fabric wrap around a bedding, the ‘529 patent expressly teaches away from such a modification of its structure to allow water to permeate the bedding.

The Grodsky patent (“the ‘969 patent”) similarly teaches a water impervious liner to prevent the intrusion of water into an area of soil conditioned to prevent corrosion of a pipe therein.

The McLaughlin patent (“the ‘455 patent”) teaches a pipe bedding construction method comprising using a number of vertical supports to support a conduit and then placing gravel under the conduit to support the conduit. Thereafter the vertical supports can be removed. There is no teaching of enveloping the pipe in gravel or surrounding the bedding with a permeable filter fiber wrap.

Applicant further notes that there is no teaching or suggestion in any of Iacocca, Repka or Blume to select a length of a lengthwise segment, the first select depth of the porous particulate material or the second select depth of the porous particulate material to store a select volume of

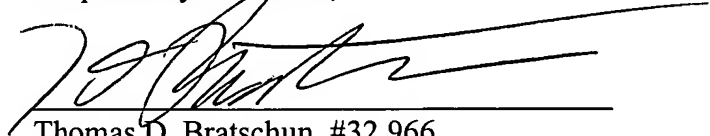
water. To the contrary, each of Iacocca, Repka and Blume teach conventional French drains where the porous particulate material is not intended to store water, but to convey water away from the formation of an adjacent structure. Thus, none of these references, or any other reference of record, teaches sizing the porous particulate material to store a select volume of water. For this reason as well, the claims should be allowed.

Applicant respectfully submits that the claims as amended are now distinguished over each of the prior art references applied in the April 4, 2005 Office Action. The applied references alone or together fail to teach or suggest a utility line configured to prevent the intrusion of ground water within a bedding of porous particulate matter surrounded by a filter fabric wrap lining, as well as sizing the bedding to store a select volume of water. For these reasons, as well as the reasons discussed in the summary of the telephonic interview, Applicant respectfully submits each of claims 1-9 and 11-29 are now in condition for allowance. Reconsideration of the rejection of the claims and the issuance of a Notice of Allowance are respectfully requested.

If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117 if not otherwise specifically requested. The undersigned hereby authorizes the charge of any required fees not included or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Bratschun', is written over a horizontal line.

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cc: Rob Hoge

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